IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO. 946 OF 2004

IN

SUMMARY SUIT NO. 3770 OF 2003

Jaikisan Pamandas Lalwani .. Plaintiff

vs.

Mr. Prataprai I. Hinduja

and Another. .. Defendants.

Mr. D.A. Nalawade for plaintiff

Mr. R.D. Dave or defendants.

CORAM : S.U. KAMDAR, J.

DATE : 10TH OCTOBER, 2005.

P.C.

. The present suit is filed against the defendant no. 1 and defendant no. 2 for recovery of the principal amount of Rs. 2,50,000/- with interest totalling to Rs. 3,66,250/-. The said claim arises under two bills of exchange executed by defendant nos. 1 and 2. The learned advocate appearing for the defendant nos. 1 and 2 has stated that a sum of Rs. 2,50,000/- is repaid by cheque dated 15.11.202 and in support thereof he has relied upon a photo-stat extract as Exhibit-1 to the

affidavit in reply. However, the learned counsel for the plaintiff has contended that that amount is not paid towards the suit transaction and there is another transaction in respect of the said promissory note. The defendants say that they have made payment in cash. There is no evidence to show that any such cash payment is made. In that view of the matter, I find no defence in the present suit. However, with a view to give an opportunity to the defendant to defend the suit, I direct defendant nos. 1 and 2 each to deposit Rs. 3,50,000/- within a period of four weeks failing which the plaintiff will be entitled to decree. The amount if so deposited, the Prothonotary and Senior Master is directed to deposit the same in a fixed deposit with any nationalised bank initially for a period of one year and renew the same from time to time till further orders from this Court.

2. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed four weeks from the date of deposit. Affidavits list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on Board of the learned Judge taking Commercial Causes.